

EXHIBIT 440

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

4 IN RE: NATIONAL : MDL No. 2804
5 PRESCRIPTION OPIATE :
6 LITIGATION : Case No. 17-md-2804
7 :
8 APPLIES TO ALL CASES : Judge Dan Aaron Polster
9 :
10 :

11
12 HIGHLY CONFIDENTIAL
13 SUBJECT TO FURTHER CONFIDENTIALITY REVIEW

15 - - - -
16 DECEMBER 13, 2018
17 - - - -
18 VIDEOTAPED DEPOSITION OF HBC SERVICE COMPANY'S
19 DESIGNATED 30(B)(6) REPRESENTATIVE,
20 JAMES TSIPAKIS.

21 taken pursuant to notice, was held at Marcus & Shapira,
22 One Oxford Center, 35th Floor, Pittsburgh, Pennsylvania
23 15219, by and before Ann Medis, Registered Professional
24 Reporter and Notary Public in and for the Commonwealth
25 of Pennsylvania, on Thursday, December 13, 2018,
26 commencing at 9:09 a.m.

27 - - - -
28 GOLKOW LITIGATION SERVICES
29 877.370.3377 phone | 917.591.5672 fax
30 deps@golkow.com

1 investigation, I mean, there was investigations
2 done. What's the specific question?

3 BY MR. GADDY:

4 Q. Did you see anything from 2009 to 2014,
5 any type of level of detail of investigation that
6 we see here in Jason's 2016 email? Did you see
7 anything like that when you looked back or did
8 your research from 2009 to 2014 when HBC was
9 distributing hydrocodone combination products?

10 MR. BARNES: Object to form.

11 THE WITNESS: I did not, not that I
12 could find.

13 BY MR. GADDY:

14 Q. I'm going to show you what I'll mark as
15 17. I don't have this to put up on the screen.
16 This is what I just got this morning, so I only
17 have the one copy.

18 (HBC-Tsipakis Exhibit 17 was marked.)

19 BY MR. GADDY:

20 Q. I'm going to hand it to you in just a
21 second. I'm going to represent to you this is a
22 December 5, 2013 email from Joe Millward to
23 several individuals, including Greg Carlson who
24 you mentioned earlier, and the subject is --

25 MR. GADDY: Can I swap and give him the

1 one that's in evidence?

2 MR. BARNES: Sure.

3 BY MR. GADDY:

4 Q. So I've handed you No. 17 now. Do you
5 see that's a December 5, 2013 email from Joe
6 Millward, the subject being 2401?

7 A. Joe Millward, yes. That's who -- yeah,
8 Joe Millward.

9 Q. And what we just went through was a
10 suspicious order that was identified by HBC in
11 January of 2016. That's what we just went through
12 a minute ago; correct?

13 A. Sorry. Let me just read it. I'm sorry.
14 Your question was now that I had a chance to read
15 it?

16 Q. That's fine. I was actually asking
17 about the last one.

18 The last suspicious order that we looked at
19 was one that was reported by HBC for January 2016;
20 correct?

21 A. Correct.

22 Q. This is a separate suspicious order that
23 is being investigated by HBC; correct?

24 A. '16. Yes. I was just trying to
25 ascertain -- I know we had a suspicious order in

1 2013. Yeah, this is what you're showing me.

2 Q. And if you turn the page -- maybe I
3 should have started on the back page.

4 It says, "HBC team, can you please be sure
5 pharmacy 2401 does not receive this particular
6 item," which is buprenorphine, "until further
7 notice. Their ordering of the product has been
8 flagged as suspicious and are being reported to
9 the DEA."

10 Do you see that?

11 A. Yes.

12 Q. I probably should have started there.

13 A. Yeah, that made it a lot clearer. Thank
14 you.

15 Q. Is buprenorphine an oxycodone
16 combination product?

17 A. I don't know.

18 Q. Has it ever been a Schedule II drug?

19 A. No.

20 Q. From 2009 when HBC first began
21 distributing controlled substances until the
22 present, so all the way through HBC's lifetime and
23 now through the Giant Eagle RX distribution
24 center, how many suspicious orders have been
25 reported to the DEA?

1 MR. BARNES: I'm going to object. With
2 respect to the discovery cut-off, we're not going
3 to the present obviously. We've indicated in our
4 discovery responses that we're filing a June 1,
5 2018 discovery cut-off. So we would object to any
6 questions beyond that date generally.

10 BY MR. GADDY:

11 Q. How many -- of those suspicious orders
12 that were reported, how many of those two orders
13 were for hydrocodone combination products?

14 A. Zero.

15 (HBC-Tsipakis Exhibit 18 was marked.)

16 BY MR. GADDY:

17 Q. I'm going to show what I'll mark as
18 Exhibit 18.

19 MR. GADDY: It's HBC 1005 internally.

20 BY MR. GADDY:

21 Q. And if you would start for me, please,
22 at the beginning of the email chain on page 2.

23 A. . . . 2?

24 Q. Correct. It starts about halfway down
25 the page with an email from Robert McClune. Do

1 you see that?

2 A. Yes.

3 Q. The subject of the email is Thrifty
4 White Notes. It says, "Team, I wanted to send a
5 note out regarding our trip to Thrifty White
6 yesterday in conjunction with the planned
7 warehouse move vault and refrigeration."

8 Do you see that?

9 A. Yes.

10 Q. What is Thrifty White?

11 A. Thrifty White is another regional
12 pharmacy chain.

13 Q. Is it white or right?

14 A. White, Thrifty White.

15 Q. What was the purpose in HBC and Giant
16 Eagle employees taking a visit to Thrifty White?

17 Let me ask you this: Are you aware
18 independently without reviewing the email?

19 A. No.

20 Q. I'll withdraw the question.

21 So it says the team went to Thrifty White
22 yesterday. Then it says in the next paragraph,
23 "Please chime into this email string with your
24 Thrifty White notes. Do not worry about
25 duplication. Just bring them."

1 Do you see that?

2 A. Yes.

3 Q. And then if you look at the bottom of
4 that page and flip to the next page, you just kind
5 of see a set of bullet points, and there's a
6 heading in that about Thrifty White notes. Do you
7 see that?

8 A. Yes.

9 Q. And if we flip through back to the first
10 page of the document, do you see the response from
11 Joe Millward who I think you said was head of the
12 compliance department?

13 A. Yes.

14 Q. And he writes, "Here are my notes." And
15 the title of his notes are Thrifty White Visit
16 Notes 8/19/2015. Are you with me?

17 Note number one is, "Keep engaged with the
18 DEA through all steps of the process."

19 Do you see that?

20 A. Yes are.

21 Q. His second note that he writes is, "It
22 is critical to have a robust suspicious order
23 monitoring program."

24 Do you see that?

25 A. Yes.

1 Q. Would you agree that from 2009 to 2014,
2 HBC did not have a robust suspicious order
3 monitoring program?

4 MR. BARNES: Object to form.

5 THE WITNESS: I do not.

6 BY MR. GADDY:

7 Q. The next sentence says, "Relying on
8 thresholds is not good enough for the DEA."

9 Do you see that?

10 A. Yes.

11 Q. From '09 through '13, HBC didn't even
12 have thresholds; correct?

13 A. Correct.

14 Q. But you still believed that the
15 suspicious order monitoring program that HBC had
16 from '09 to '13 was robust?

17 A. Yes.

18 Q. It then goes on to say, "They have a
19 process to review the orders before they are
20 filled by the distribution center."

21 Do you see that?

22 A. Yes.

23 Q. And, in fact, that's opposite to HBC and
24 Giant Eagle's system where the orders are filled
25 and then reviewed afterwards; correct?

1 A. An investigation -- there could be
2 situations where investigation is happening while
3 orders are in transit for delivery, yes.

4 Q. So HBC and Giant Eagle did not have a
5 program to review the orders before they're
6 filled?

7 MR. BARNES: Object to form.

8 THE WITNESS: Giant Eagle had a process.
9 Some of the investigative work would not have been
10 before the order was shipped.

11 BY MR. GADDY:

12 Q. Then number three says that -- Thrifty
13 White, is that a standalone wholesale distributor,
14 or is that a distributor and a pharmacy?

15 A. It's a pharmacy.

16 Q. I went through a list earlier of other
17 folks that distribute to themselves. Thrifty
18 White would fall under this bucket as well,
19 correct, of pharmacies that distribute to
20 themselves?

21 A. Yes.

22 Q. Number three says, "Thrifty White has
23 instituted guardrails for dispensing of controlled
24 substances."

25 And then down below it, if you go down,

1 there's an (a) and (b) and then there's a little
2 lower case (i), and it gives some examples of
3 flags. Do you see that?

4 A. Yes.

5 Q. And it talks about this cash versus
6 insurance, something we talked about a little
7 already; correct?

8 A. Yes.

9 Q. It talks about geographical relationship
10 of the prescriber and patient to the pharmacy?

11 A. Yes.

12 Q. Talks about combo drugs or a combination
13 of controls being dispensed. Do you see that?

14 A. Yes.

15 Q. Again, these are all factors that we
16 ultimately end up seeing in a Giant Eagle policy
17 that comes out in 2015; correct?

18 A. Components of this, yes.

19 MR. BARNES: Jeff, if you're at a good
20 break, we've been going about an hour and 15
21 minutes.

22 MR. GADDY: Yeah. That's fine.

23 THE VIDEOGRAPHER: 2:43. We're off the
24 video record.

25 (Recess from 2:43 p.m. to 3:05 p.m.)

1 THE VIDEOGRAPHER: 3:05. We're on the
2 video record.

3 BY MR. GADDY:

4 Q. Mr. Tsipakis, I'm going to hand you HBC
5 1009, which I've marked, I believe, a Exhibit 19.

6 (HBC-Tsipakis Exhibit 19 was marked.)

7 BY MR. GADDY:

8 Q. Do you see this is a November 2015 email
9 from Joseph Millward?

10 A. Yes.

11 Q. And do you see the subject of the email
12 is SOMS: Suspicious order monitoring and
13 controlled drug monitoring. Do you see that?

14 A. Yes.

15 Q. And he's writing to Phillip Raub, John
16 Hutton and Roger Wolfe. Do you know what
17 department those folks are in and what they do?

18 A. I know who Phil Raub is, but I don't
19 know what department these folks are in.

20 O. Who is Phil Raub and what does he do?

21 A. I know what he does today. I don't know
22 what he did at this time.

23 Q. What's he do today?

24 A. Today he works on our inventory team.

25 Q. Is he more of an IT computer-type

1 person?

2 A. Yes.

3 Q. And would it be accurate to say that one
4 of his functions is designing or implementing
5 technology or reports? Does that make sense to
6 you?

7 A. That doesn't exactly line up with what
8 he does, no.

9 Q. Describe what he does.

10 A. He basically makes sure -- he's a
11 liaison between like our McKesson, McKesson
12 account rep and other manufacturers' delivery
13 orders. Again, just to be clear, you're talking
14 about what he does today; correct?

15 Q. Yeah.

16 A. So when we have late orders from
17 McKesson or Cardinal, he'll follow up on those,
18 stores, say they didn't get an order from the
19 wholesaler, those kind of things. Inventory
20 control would be a better way to say it.

21 Q. Let's go back to this document. He
22 says, "Phil, John and Roger, on Friday George and
23 I participated in a conference call with Purdue
24 Pharma, maker of top self controlled substances
25 such as Oxycontin and Hyslinga ER, to discuss

1 Q. He goes down in the next paragraph to
2 say, "It would be necessary to break dispensing
3 down to the following examples: On weekly,
4 monthly, quarterly and year-to-date timelines.

5 And then he gives some examples of what type
6 of information he would like to see HBC or Giant
7 Eagle start gathering to issue these types of
8 reports; correct?

9 A. Yes.

10 Q. And it includes I think in the first
11 instance there -- it says the total number of
12 prescriptions and the total number of -- and the
13 percentage of controlled substance prescriptions;
14 correct?

15 A. Yes.

16 Q. And it talks about trying to figure out
17 the percentage in cash versus the percentage with
18 the discount card versus the percentage with
19 insurance; correct?

20 A. Yes.

21 Q. Then in the next line, he talks about
22 trying to determine the number and percentage of
23 total prescriptions and controlled substances of
24 what he calls there at the end his target
25 chemicals, which would be oxycocodone, hydrocodone

1 and Suboxone; correct?

2 A. Correct.

3 Q. This process of him wanting to be able
4 to see reports on a weekly, monthly, quarterly and
5 year-to-date basis is something that he's asking
6 these folks to look into implementing here in
7 November of 2015; correct?

8 A. He's inquiring about them, yes. As far
9 as what exactly he's trying to do, I can't -- I
10 can speculate, but it's one email. Certainly,
11 he's asking for more data.

12 Q. Sure. But you saw in the first
13 paragraph where he said that he wanted to
14 incorporate this factor and these types of things
15 into HBC's or Giant Eagle's suspicious order
16 monitoring program; correct?

17 A. Sure.

18 Q. He's wanting to do that in November of
19 2015; correct?

20 A. He's inquiring about it in
21 November 2015, and this is a standard of trying to
22 improve the process and look deeper on things,
23 sure.

24 Q. And he's looking to add that layer, the
25 percentage of cash versus third party, in November

1 of '15?

2 A. Yes.

3 Q. I'm going to show you what I will mark
4 as Exhibit No. 20.

5 (HBC-Tsipakis Exhibit 20 was marked.)

6 MR. GADDY: This is HBC 1023, which
7 we're marking as Exhibit 20.

8 BY MR. GADDY:

9 Q. And if we look at the first page, do you
10 recognize this to be an email from Adam Zakin in
11 March of 2016?

12 A. Yes.

13 Q. You can go ahead and turn to the back
14 page so we can get to the earliest email in the
15 chain.

16 Do you see it says, "Hello, Joseph and
17 George. As a follow-up to our discussions, I have
18 attached our SOM solution proposal for your
19 review. Once you've had a chance to review this
20 internally, we would welcome an opportunity to
21 talk through our two SOM options and answer any
22 questions you have."

23 Do you see that?

24 A. Yes.

25 Q. And it's from Gary at Buzzeo. Do you

1 see that?

2 A. Yes.

3 Q. Do you know what Buzzeo is?

4 A. Yes.

5 Q. What is that?

6 A. Buzzeo is the compliance arm of IQVIA.

7 They purchased Buzzeo years back. I'm familiar
8 with them.

9 Q. Do you know what the purpose of
10 Buzzeo -- what service it is that they provide?

11 A. Consultant services that they provide.

12 Q. And what he's indicating here I think as
13 we'll see as we go through, he wants to talk to
14 Joe Millward and George Chunderlik regarding
15 suspicious order monitoring programs; correct?

16 A. Yeah. He's a salesmen trying to pitch a
17 solution or a consultant or consulting engagement,
18 sure.

19 Q. If we go back to the first page and we
20 go two-thirds of the way down, you see an email
21 from George Chunderlik.

22 A. First page?

23 Q. Yes, about two-thirds of the way down.
24 Are you with me, George Chunderlik on March 24,
25 2016?

1 A. Um-hum.

2 Q. And he says, "Hi, Adam and Bob. I think
3 it would be" -- and to be clear -- never mind.

4 He's writing to Bob McClune and Adam Zakin;
5 correct?

6 A. Yes.

7 Q. Tell me who they are and what they do
8 within HBC or Giant Eagle.

9 A. At the time of this email; correct?

10 Q. Sure.

11 A. So at the time of this email, Adam is
12 senior director of administration, which includes
13 the procurement team. Bob works for Adam
14 basically on the procurement and analytics team.

15 Q. Are they both still with the company?

16 A. Yes.

17 Q. George says, "I think it would be
18 worthwhile to talk to these guys about their SOM
19 program. I'm curious to see their products. I'm
20 going to set something up for us and include Jason
21 unless you have any objections."

22 Do you see that?

23 A. Yes.

24 Q. If you go back up to the top of the
25 page, you see Adam's response; correct?

1 A. Yes.

2 Q. He says, "We saw this. We're not there.

3 At the end of day, the only thing it did that our
4 current system would not do was stop the orders
5 physically if there was a threshold."

6 Do you see that?

7 A. Yes.

8 Q. So in March of 2016, HBC or Giant Eagle,
9 their current system would not physically stop the
10 orders that rose above the threshold; correct?

11 A. Correct.

12 Q. This outfit was selling a product that
13 would have stopped the orders that were identified
14 as being above the threshold prior to them being
15 shipped to the store, correct, at least according
16 to George and Adam?

17 A. I don't know what they were -- what they
18 looked at, what was presented. So I can't
19 speculate what it does or doesn't do.

20 Q. That's what Adam is representing they
21 did; correct? He says, "The only thing it did
22 that our current system would not do was stop the
23 orders physically if there was a threshold."

24 A. That's what it says here and he
25 represented here, yes.

1 Q. It says, "Also, it would benchmark
2 against other retailer" and goes on to say, "It
3 was fairly expensive in comparison to already
4 having what we had for these two pieces of
5 function."

6 Do you see that?

7 A. Yes.

8 Q. He goes on to say, "If you want to bring
9 them in to see them again, you can. I don't think
10 Bob or I need to see them unless there's something
11 specific you want us to see post your review. Let
12 me know if you have any questions. Adam."

13 Is that it for that email?

14 A. Yes.

15 Q. So in March of 2016, Giant Eagle and HBC
16 did not have a system that would physically stop
17 orders if they violate the threshold, and when
18 offered to purchase or adopt a program that did,
19 at least Adam Zakin's position was to not do that;
20 correct?

21 MR. BARNES: Object to form.

22 THE WITNESS: In the research that I've
23 done, there was a lot of different things the
24 company was looking at, different external
25 solutions, internal solutions, coding internally

1 versus buying off the shelf. I believe I saw
2 something about this was a cloud service that
3 needed a tremendous amount of IT integration. So
4 I think there's more to this.

5 BY MR. GADDY:

6 Q. As we sit here today, does HBC or Giant
7 Eagle have a system that will physically stop
8 orders from being shipped if they violate the
9 threshold?

10 A. For which time period? I'm sorry.

11 Q. Now.

12 MR. BARNES: Same objection. Take it
13 through June 1 of '18.

14 THE WITNESS: Yes.

15 BY MR. GADDY:

16 Q. June 1 of '18 HBC and Giant Eagle did
17 have a system that would stop an order if it
18 violated a threshold?

19 A. Yes.

20 Q. When did that happen?

21 A. January of '17.

22 Q. I'm going to show you HBC 1027 that I'm
23 going to mark --

24 A. Let me be clear. Early 2017. It might
25 not be exactly January, but early 2017.

1 Q. I'm going to show you what I've marked
2 HBC 1027 or which is HBC 1027, which I'm going to
3 mark as Exhibit 21.

4 (HBC-Tsipakis Exhibit 21 was marked.)

5 BY MR. GADDY:

6 Q. Do you see this document is an email,
7 and it's going to have some attachments. The
8 email is from an individual named James Cornwell
9 written in August of 2016. The subject of that
10 email is Order Item Blocking, December 5, 2013.

11 Do you see that?

12 A. Yes.

13 Q. Do you know who Mr. Cornwell is?

14 A. Yes.

15 0. Who is he and what does he do?

16 A. He 's on the IT team. He works on the IT
17 side

18 Q. He writes this email. He says,
19 "Dominic, Phil, I didn't find much on this. I do
20 see the SOL was written by Kayla."

21 Do you know what SOT means?

22 A. SOTU, yes.

23 Q. What does that mean?

24 A. SOTL code

25 Q. So she designed the program that's

1 generating the report? Explain that for me,
2 please.

3 A. I know what SQL means. I don't know who
4 Kayla is.

5 Q. It goes on to say, "The requirements
6 were utilizing a monthly average looking back at
7 the last 12 months that had each item ordered
8 based on GPI."

9 Do you see that?

10 A. Yes.

11 Q. Is that describing the threshold system
12 that was put in place in 2013?

13 A. Yes.

14 Q. It says, "This value was a monthly
15 accumulation that reset the first of each month
16 had which mirrored McKesson's system but left big
17 holes in our logic."

18 Do you see that?

19 A. Yes.

20 Q. Do you know what big holes Mr. Cornwell
21 was referring to there?

22 A. I do not.

23 Q. Would you agree that it would not be
24 good to have a suspicious order monitoring program
25 with big holes in it.

1 MR. BARNES: Object to form.

2 THE WITNESS: If it was the only thing
3 you were relying on. In our system we had --
4 threshold it was one of multiple layers of how we
5 complied with the controlled substance security
6 requirement.

7 BY MR. GADDY:

8 Q. But you agree it would not be a good
9 thing to have big holes in your suspicious order
10 monitoring program?

11 A. I think generally big holes are a bad
12 thing.

13 Q. It says, "If the items showed on the
14 report, George evaluated it, and if it was
15 determined it should be blocked, the blocking form
16 was filled out."

17 Do you see that?

18 A. I'm sorry. Where were you?

19 Q. I just kept reading. It says that items
20 showed on the report George evaluated -- I'm
21 sorry -- "If the item showed on the report, George
22 evaluated it, and if it was determined it should be
23 blocked, a blocking form was filled out."

24 Do you see that?

25 A. Yes.

1 inventory control suspicious order policy that was
2 enacted back in August of 2014?

3 A. Yes.

4 Q. I see a name there, the policy owner
5 being Matt Rogos?

6 A. Yes.

7 Q. Do you know that person?

8 A. I do not.

9 Q. Do you know whether Mr. Rogos indeed
10 worked for HBC back in 2014?

11 A. I do not, no.

12 Q. Do you know whether he currently works
13 for Giant Eagle?

14 A. I do not.

15 Q. Did you have an opportunity to try to
16 speak with Mr. Rogos to find out about his
17 knowledge concerning this policy?

18 A. Are you asking me if I tried to reach
19 out to Mr. Rogos?

20 Q. Yes.

21 A. No.

22 Q. Stay on that page with me, but go down
23 towards the bottom under Procedures. You'll see
24 some bullet points.

25 A. Yes.

1 Q. Go down to the second bullet point, and
2 I'm going to read it, and tell me if I'm reading
3 it incorrectly. Okay?

4 A. Yes.

5 Q. It appears to me the second bullet point
6 states that "Suspicious order criteria include,
7 but are not limited to, purchases over a defined
8 period that exceed a predetermined threshold."

9 Did I read that correctly?

10 A. You did.

11 Q. At least if we read that portion of this
12 policy, Exhibit 12, and we apply it to the
13 spreadsheet that we were just looking at for
14 December of 2013, does it appear to you that any
15 amount shipped in excess of the threshold quantity
16 should at least raise a question in someone's mind
17 as to whether there indeed is a suspicious order?

18 A. Yes.

19 Q. Are you able to sitting here today tell
20 us whether anybody raised any questions or raised
21 any red flags about the December 2013 order by
22 store number 8 or the shipment to store number 8
23 that month and whether it indeed was a suspicious
24 order?

25 A. I can't tie back specifically to that,

1 but certainly we just discussed a conversation
2 with the field ops. and corporate regarding store
3 8.

4 Q. We did, and that was actually the month
5 after December 2013, January 2014.

6 A. Yes.

7 Q. And at least in January of 2014, someone
8 wanted to look into the ordering pattern of store
9 number 8 to find out whether this indeed was a
10 suspicious order for January of 2014?

11 A. Yes.

12 Q. But going back to 2013, at least sitting
13 here today, you're not aware of anyone questioning
14 the order by store number 8 in December 2013?

15 A. I don't have anything in front of me
16 that there was or wasn't; correct.

17 Q. Have you seen any documents or any
18 emails by anyone concerning any questions about
19 the orders by store number 8 in December of 2013?

20 A. I did not.

21 Q. If you go to page 1053, I'll represent
22 to you that this appears to be an end-of-the-month
23 report for November 2013 dated specifically 30
24 November 2013. Are you with me?

25 A. For November 2013?

1 Q. Yes.

2 A. Yes.

3 Q. If you'll go to the spreadsheet, please.

4 And if you go down to store number 8, which I
5 believe is the fourth store from the bottom, and
6 if you look at the amount shipped in November of
7 2013 to store 8, it appears to be 12,298?

8 A. Yes.

9 Q. With a threshold quantity being 7257?

10 A. Yes.

11 Q. And correct me if you think I'm wrong,
12 but by my math, that's five times the monthly
13 average?

14 A. Yes.

15 Q. And knowing what you've told us about
16 your understanding of the store looking into any
17 orders that it thinks should be of concern, would
18 you have expected HBC or someone at HBC to have
19 investigated the amount shipped for the
20 hydrocodone product to store number 8 in that
21 month?

22 A. I would have expected someone to look at
23 at each line item on the report or daily
24 throughout the month on this report and do their
25 due diligence on each of these line items, yes.

1 Q. Would that be an investigation you would
2 expect to be done by the procurement department?

3 A. It's a combination. I think as we saw
4 in other documents, procurement would have been
5 involved. Compliance is involved in some cases.
6 Loss prevention is involved. So it's a whole
7 litany of folks depending what they need to look
8 at.

9 Q. If you go now with me to internal
10 reference 1052, which is the end-of-the-month
11 report of October 2013, again, to the best of your
12 knowledge at least in 2013, the threshold quantity
13 was being applied across the store chain, an
14 average across the store chain; correct?

15 A. Correct.

16 Q. If you go to the second page, the
17 spreadsheet, with me, if you go to the very
18 bottom, you'll find store 8 again.

19 A. Yes.

20 Q. And here in -- at least at the end of
21 October of 2013, does it appear to you that the
22 total amount shipped of the hydrocodone products
23 to store number 8 exceeded the threshold quantity?

24 A. Yes.

25 Q. And again, you're not aware at least for

1 this month of any emails by anyone asking anyone
2 to look into whether store 8 had any abnormal
3 ordering patterns for the hydrocodone products?

4 A. I don't have any specific knowledge of
5 them or not.

6 Q. I have one more spreadsheet I want to
7 ask you about, and it actually jumps forward. It
8 fast forwards now to May of 2014. Let me know
9 when you're with me.

10 A. What number is that?

11 Q. I think May of 2014. Is that what you
12 have?

13 A. Is it 1059 in the corner?

14 Q. Yes, 1059.

15 A. I'm tracking with you.

16 Q. And if you'll go to the second page of
17 the spreadsheet again with me, again, you'll see
18 store number 8 about in the middle of that
19 spreadsheet.

20 And would you agree with me that the amount
21 shipped in this month of 10,879 exceeded the
22 threshold quantity, which was 5598?

23 A. Yes.

24 Q. And is it your understanding that even
25 as of 2016, the threshold quantity was still being

1 applied as an average across the store chains?

2 A. Yes.

3 Q. I think I'm done with that exhibit.

4 When talking about the threshold system that
5 was put in place in 2013, I think I heard you
6 earlier say that it was done to improve the system
7 of monitoring for suspicious orders.

8 A. To add further layers, yes.

9 Q. Looking back, do you think back in 2013
10 putting the threshold system in place the way it
11 was put in place, that it was indeed an
12 improvement over what HBC had at that point in
13 time?

14 A. It was an improvement that there was
15 automated reports, certainly some IT help to it in
16 some regards.

17 Q. Because prior to 2013, there were no
18 automated reports; is that right?

19 A. It was more a manual process, yes.

20 Q. Not just more a manual process. There
21 was no automated reporting coming out on a daily
22 basis; is that right?

23 A. As far as I could find, no.

24 Q. You may recall a little earlier today
25 that you were shown a couple of letters by the

1 Drug Enforcement Agency dating back to 2012 and
2 then prior to 2012.

3 A. Yes.

4 Q. Correct me if I'm wrong. It's my
5 understanding that you cannot recall if you had
6 actually seen those letters before?

7 A. Correct.

8 Q. To your knowledge, did anyone at HBC
9 ever at any point in time from 2012 to 2014
10 initiate any communication to DEA in writing
11 stating that they had read the 2012 letter, but
12 that they either had any questions about it or
13 that they would not be able to comply with it for
14 one reason or another?

15 A. I don't have any knowledge of that.

16 Q. Did you speak to anyone at HBC who told
17 you that they had personally tried to contact DEA
18 with any questions about the contents of the 2012
19 letter?

20 A. I do recall in the conversations from
21 our supervisor, Walt Durr, that there was
22 conversations about they were always in contact
23 with DEA on inspections.

24 I believe he mentioned that they had audits
25 that they had come in, some scheduled, some not

1 scheduled. Certainly our loss prevention
2 department has a history of being close with the
3 different municipalities, both the boards as well
4 as the DEA and others.

5 Q. We're going to get a chance to speak
6 with Mr. Durr I think in a couple of weeks in a
7 deposition.

8 But to your knowledge, did he specifically
9 tell you he had had any discussions with DEA about
10 the directives given in the DEA's 2012 letter?

11 A. No.

12 Q. Similarly, you had no discussions with
13 anyone else at HBC that recalls having any
14 discussions with DEA about the specific contents
15 of the 2012 letter?

16 A. Not that I had, no.

17 Q. As I listened to you explain the system
18 that was in place between 2009 and 2014 at HBC,
19 it's my understanding that there was communication
20 between HBC and the Giant Eagle pharmacies on a
21 regular basis.

22 A. There's communication between the
23 warehouse, pharmacy operations, corporate. So it
24 was not uncommon to have dialogue and
25 communication amongst those three teams and loss

1 prevention, the constituents internally, all the
2 stakeholders.

3 Q. Similarly, there was sharing of
4 information so that if a question existed by HBC
5 about a shipment, there was an email chain that
6 somebody could email to a colleague at Giant Eagle
7 to get information; is that right?

8 A. There was an ability to, sure.

9 Q. And we've seen some of those emails
10 today; right?

11 A. Yes.

12 Q. As I understand it from the spreadsheets
13 we were just looking at, did HBC have access to
14 Giant Eagle pharmaceutical data?

15 A. Sure, yes.

16 Q. If a pharmacist at Giant Eagle had a
17 question or had a concern they wanted to express
18 to HBC, they could do that by email?

19 A. If a pharmacist?

20 Q. Yes.

21 A. Sure, they could.

22 MR. ROTTINGHAUS: I'll show counsel what
23 has been marked as Exhibit 25.

24 P-GEN-0085.

25 (HBC-Tsipakis Exhibit 25 was marked.)

1 BY MR. ROTTINGHAUS:

2 Q. Sir, was HBC a member of the National
3 Association of Chain Drugstores?

4 A. Was HBC? Giant Eagle was.

5 Q. Was HBC?

6 A. We would contract with that entity at
7 the parent level, so it would have been Giant
8 Eagle.

9 Q. And would HBC have access -- as Giant
10 Eagle -- as part of Giant Eagle's membership,
11 would HBC have access to any information shared
12 among members of the National Association of Chain
13 Drugstores?

14 A. Sure.

15 Q. And have you confirmed that Giant Eagle
16 indeed was a member of the National Association of
17 Chain Drugstores between 2009 and 2014?

18 A. Have I confirmed that?

19 Q. Yes.

20 A. No.

21 Q. Is it your understanding that they were?

22 A. Speculation, but I would assume they
23 were, yes.

24 Q. Well, are you aware of any participation
25 by Giant Eagle in efforts to communicate with the

1 Drug Enforcement Administration about the proposed
2 change of hydrocodone-containing products from
3 Schedule III to Schedule II?

4 MR. BARNES: I'm going to object to the
5 form. He's already said HBC wasn't a member.
6 You're asking him about a document for something
7 it wasn't a member.

8 BY MR. ROTTINGHAUS:

9 Q. Are you, sir?

10 A. I'm sorry. Can you repeat the question,
11 please?

12 Q. Let me ask you this: Are you aware of
13 or do you know whether HBC had any involvement in
14 any efforts to communicate with the Drug
15 Enforcement Administration about any concerns HBC
16 had with the administration's proposed change for
17 hydrocodone-containing products from Schedule III
18 to Schedule II?

19 A. I don't know.

20 Q. And you'll see that Exhibit 25 is an
21 April 28, 2014 letter to the Drug Enforcement
22 Administration.

23 A. Yes.

24 Q. And if you look at the top right above
25 the date of the letter, you'll see that among